

AMENDED IN SENATE JUNE 25, 2014

AMENDED IN SENATE JUNE 12, 2014

AMENDED IN ASSEMBLY MAY 23, 2014

AMENDED IN ASSEMBLY APRIL 3, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2415

Introduced by Assembly Member Ting
(Principal coauthor: Assembly Member Cooley)
(Coauthors: Assembly Members Bocanegra and Dababneh)

February 21, 2014

An act to add Chapter 14.5 (commencing with Section 22260) to Division 8 of the Business and Professions Code, relating to property tax agents.

LEGISLATIVE COUNSEL'S DIGEST

AB 2415, as amended, Ting. Property tax agents.

Existing law requires every assessor to assess all property subject to general property taxation at its full value and to prepare an assessment roll in which all property within the county that it is the assessor's duty to assess is required to be listed. Existing law requires a county board of equalization or an assessment appeals board to equalize the assessment of property on the local roll for the purpose of taxation. Existing law authorizes a taxpayer, with respect to each assessment year, to file an application for a reduction in an assessment, as provided, with the county board, which is the county board of supervisors meeting as a county board of equalization or an assessment appeals board.

This bill would, commencing April 1, 2016, prohibit a Property Tax Agent, defined as any individual who is employed, under contract, or otherwise receives compensation, from communicating directly or indirectly with any county official for the purpose of influencing official action relating to the establishment of a taxable value for any property subject to taxation, including representing a taxpayer before a county official, without first being registered and issued a registration number by the Secretary of State. The bill would provide that a violation of these provisions is a misdemeanor. The bill would require a Property Tax Agent to file, under penalty of perjury, with the Secretary of State an application for registration that includes specified information and a registration fee, as specified. Because this bill would create new crimes, this bill would impose a state-mandated local program.

This bill would make the registration subject to biennial renewal. This bill would require the Secretary of State to issue a cease and desist order to a person who is subject to these provisions if that person has been convicted of a felony or certain other criminal offenses or has had his or her professional license, as specified, revoked; to a Property Tax Agent who engages in prohibited activities, and to ~~a person~~ *an individual* who acts as a Property Tax Agent without registering, and to provide a copy of the notice to the Attorney General.

This bill would require the Secretary of State to develop a list of registered ~~property tax agents~~, *Property Tax Agents*, and a list of ~~registered property tax agents~~ *Property Tax Agents* who, *after exhausting their administrative remedies*, have been issued a cease and desist order, fined or convicted for committing specified violations, or whose license, *as specified*, has been revoked, and to make those lists publicly available on its Internet Web site, as specified. The bill would provide that a Property Tax Agent is subject to disqualification for engaging in specified ~~activities, including, but not limited to, representing that the Property Tax Agent can control the official action of any county official and making a gift, as defined, to any county official.~~ *The bill activities* and would authorize the imposition of civil penalties not to exceed \$1,500 for each violation of these provisions.

This bill would require the Attorney General, District Attorney, or City Attorney, as applicable, to notify the Secretary of State of any conviction of, or of any penalty imposed against, a Property Tax Agent pursuant to these provisions. By imposing new duties on city attorneys' offices, this bill would impose a ~~state-mandate~~ *state-mandated* local program.

This bill would preempt and supersede all local ordinances regarding the registration of any individual who communicates directly or indirectly with any county official for the purpose of influencing official action regarding a property tax assessment.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 14.5 (commencing with Section 22260)
2 is added to Division 8 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 14.5. PROPERTY TAX AGENTS
6

7 22260. The following definitions apply for purposes of this
8 chapter:

9 (a) "County official" means the county assessor, an assessment
10 appeals board member, an assessment hearing officer, and any
11 other county employee within those offices whose duties are not
12 primarily clerical or manual.

13 (b) "Gift" shall be defined as set forth in the Political Reform
14 Act of 1974 (Title 9 (commencing with Section 81000) of the
15 Government Code) and the regulations adopted thereunder.

16 (c) (1) "Influencing official action" means representing a
17 taxpayer as an agent in connection with any matter before any
18 county official by promoting, supporting, influencing, seeking
19 modification of, opposing, or seeking delay of any official action
20 by any means.

21 (2) The following shall not be considered to be influencing
22 official action:

1 (A) The filing or submitting of required county forms for
2 compliance purposes and communication related to these filings
3 shall not be considered to be influencing official action.

4 (B) The act of contacting, or being contacted by, a county
5 official solely for the purpose of ascertaining the current status of
6 any of the following:

7 (i) A property's taxable value.

8 (ii) A pending property tax refund.

9 (iii) A pending property tax exemption application.

10 (d) "Official action" means establishing a taxable value for any
11 property subject to property taxation, including initial value,
12 declines in value, corrections to values and any other changes in
13 the taxable value set; completing an assessment roll showing the
14 assessed values of all property; applying all legal exemptions to
15 assessments; issuing refunds; and deciding all property assessment
16 disputes between taxpayers and a county official.

17 (e) "Public official" and "public employee" mean any
18 government official or employee of any state or local government
19 agency.

20 (f) "Property Tax Agent" means any individual who is
21 employed, under contract, or otherwise receives compensation to
22 communicate directly, or through agents, employees, or
23 subcontractors, with any county official for the purpose of
24 influencing official action. A Property Tax Agent shall not include:

25 (1) An elected or appointed public official or public employee
26 when acting in his or her official capacity.

27 (2) A person representing any of the following:

28 (A) Himself or herself.

29 (B) An immediate family member.

30 (C) An entity of which the person is a partner or owner of 10
31 percent or more of the value of the entity.

32 (3) An in-house tax professional or in-house employee
33 representing his or her employer by influencing official action.

34 (4) A person who, accompanying the taxpayer or a registered
35 Property Tax Agent, only provides their expert opinion to a county
36 official.

37 22260.1. (a) (1) Each Property Tax Agent shall file, under
38 penalty of perjury, with the Secretary of State an application for
39 a registration containing the following information:

1 (A) The Property Tax Agent's full name, business address,
2 business telephone number, business email address, date of birth,
3 and previous Property Tax Agent number issued by the Secretary
4 of State, if applicable.

5 (B) The name of the Property Tax Agent's employing tax agent
6 firm, if applicable.

7 (C) A statement affirming that the person has not:

8 (i) Been convicted of any felony under state or federal tax laws.

9 (ii) Been convicted of any other criminal offense involving
10 dishonesty, breach of trust, or moral turpitude.

11 (iii) Had his or her professional license to practice as an attorney,
12 certified public accountant, public accountant, or actuary revoked
13 by any duly constituted authority of any state, territory, or
14 possession of the United States, including a commonwealth, or
15 the District of Columbia, any court of record, or any agency, body,
16 or board.

17 (D) A statement that the Property Tax Agent has read and
18 understands the duties and prohibitions contained in Section
19 22260.6.

20 (2) Intentionally providing false information on the application
21 for registration shall disqualify an individual from registration as
22 a Property Tax Agent and subject a person who was previously
23 registered as a Property Tax Agent to the issuance of a cease and
24 desist order by the Secretary of State.

25 (3) (A) A Property Tax Agent shall also pay the Secretary of
26 State a registration fee in the amount of two hundred fifty dollars
27 (\$250) or a fee not to exceed the amount necessary to administer
28 this chapter.

29 (B) The Secretary of State may cancel the registration of a
30 Property Tax Agent if a check or other remittance accepted as
31 payment for the registration or reissuance of a registration is not
32 paid upon presentation to the financial institution upon which the
33 check or other remittance was drawn. Upon receiving written
34 notification that the item presented for payment has not been
35 honored for payment, the Secretary of State shall first issue a
36 written notice of the applicability of this section to the Property
37 Tax Agent or the person who submitted the payment instrument.
38 Thereafter, if the amount is not paid by a cashier's check or the
39 equivalent in certified funds, the Secretary of State shall issue a
40 second written notice of cancellation and the cancellation shall

1 thereupon be effective. The second written notice shall be issued
2 at least 20 days after the first notice, and no more than 90 days
3 after the date of the issuance or reissuance of the registration
4 number.

5 (b) If the requirements of subdivision (a) are satisfied, the
6 Secretary of State shall issue a Property Tax Agent registration
7 number to the Property Tax Agent.

8 (c) Beginning on January 1, 2016, the Secretary of State shall
9 accept applications for a registration from Property Tax Agents.

10 (d) Beginning April 1, 2016, a Property Tax Agent shall not
11 represent taxpayers before a county official without first being
12 registered and issued a registration number pursuant to this section.
13 The Secretary of State shall provide the Property Tax Agent the
14 same registration number should that Property Tax Agent reregister
15 at a subsequent date.

16 (e) A registration issued pursuant to this section shall expire
17 two years from its date of issuance unless and until that person
18 terminates the registration or until that person no longer qualifies
19 as a registrant.

20 (f) The Secretary of State, at least 30 days but no more than 90
21 days, prior to the expiration of the registration, shall send to the
22 Property Tax Agent a notice of the registration's expiration.

23 (g) Registration fees collected pursuant to this chapter shall be
24 deposited in the Secretary of State's Business Fees Fund
25 established in Section 12176 of the Government Code.

26 ~~22260.2. A county supervisor or a member of a county~~
27 ~~assessment appeals board shall not act as a Property Tax Agent in~~
28 ~~the county in which they currently serve as a county supervisor or~~
29 ~~as a member of a county assessment appeals board.~~

30 22260.3. (a) Within 10 days of any change in any of the
31 registration information submitted pursuant to Section 22260.1, a
32 Property Tax Agent shall file updated *accurate* registration
33 information with the Secretary of State.

34 (b) When a Property Tax Agent ceases all activities related to
35 influencing official action, this fact shall be reported to the
36 Secretary of State.

37 (c) It shall be a misdemeanor for any person to act as a Property
38 Tax Agent if that person intentionally provided false information
39 relating to the statements required by subparagraph (C) of
40 paragraph (1) of subdivision (a) of Section 22260.1 for registration,

1 if that person is not registered as a Property Tax Agent pursuant
2 to Section ~~22260.1~~, or if that person was previously registered as
3 a Property Tax Agent pursuant to Section ~~22260.1~~ but that person
4 is no longer registered as a Property Tax Agent. *22260.1.*

5 22260.4. This chapter shall not be construed to prohibit a
6 county from, by ordinance, enacting Property Tax Agent reporting
7 requirements for campaign contributions to elected officials in that
8 county or prohibiting such campaign contributions.

9 22260.5. (a) The Secretary of State shall develop a list of
10 registered Property Tax Agents and make that list available to the
11 public on its Internet Web site.

12 (b) The Secretary of State shall develop a list of registered
13 Property Tax Agents, who after exhausting their administrative
14 remedies, have been issued a cease and desist order, fined for or
15 convicted of a violation of this chapter, or whose license as an
16 attorney, certified public accountant, public accountant, or actuary
17 has been revoked, and post the names and business addresses of
18 those Property Tax Agents on the secretary's Internet Web site.

19 22260.6. A property tax agent shall be subject to
20 disqualification for engaging in any of the following activities:

21 (a) Use, or participate in the use of, any public communication
22 or private solicitation containing false, misleading, fraudulent, or
23 deceptive representations, or intimate that the Property Tax Agent
24 is able to improperly obtain special consideration or action from
25 the county of any county official.

26 (b) Act as or attempt to act as, or claim to be the Property Tax
27 Agent of a taxpayer, or represent a taxpayer before a county or
28 any county official, without the authorization of that taxpayer.

29 (c) Violate Section 17533.6 or 17537.9 of the Business and
30 Professions Code.

31 (d) Knowingly aid and abet another person to practice as a
32 Property Tax Agent before the county or a county official during
33 a period when the other person ~~has been deregistered as a Property~~
34 ~~Tax Agent or otherwise is ineligible to lawfully act~~ *is not currently*
35 *registered by the Secretary of State* as a Property Tax Agent.

36 (e) Directly or indirectly attempt to influence, or offer or agree
37 to attempt to influence, the official action of any county official
38 by the use of threats, false accusations, duress, or coercion, by the
39 offer of any special inducement or promise of an advantage or by
40 bestowing any gift, campaign contribution, favor, or thing of value.

1 (f) Do anything with the purpose of placing any county official
2 under personal obligation to the Property Tax Agent or another.

3 (g) Represent, either directly or indirectly, that the Property Tax
4 Agent can control the official action of any county official.

5 (h) Make a gift or gifts of any monetary value to a county
6 official. A Property Tax Agent shall not act as an agent or
7 intermediary in the making of any gift or arrange for the making
8 of any gift from any other person.

9 (i) *Act as a Property Tax Agent in a county in which he or she*
10 *serves as a county supervisor as a member of the assessment*
11 *appeals board.*

12 (j) *Make a campaign contribution to a candidate for office of*
13 *county assessor or member of the State Board of Equalization.*

14 22260.7. (a) The Secretary of State shall issue a cease and
15 desist order to a person subject to the provisions of this chapter
16 who had his or her professional license to practice as an attorney,
17 certified public accountant, public accountant, or actuary revoked,
18 or has been convicted of any felony under state or federal tax laws,
19 or has been convicted of any other criminal offense involving
20 dishonesty, breach of trust, or moral turpitude, and shall provide
21 a copy of the order to the Attorney General. Unless the person has
22 been punished by imposition of a civil penalty pursuant to Section
23 22260.8, prior to issuing a cease and desist order to a person
24 pursuant to this subdivision, the Secretary of State shall provide
25 the person with written notice and an opportunity to demonstrate
26 that grounds for ~~disqualification~~ *the cease and desist order* do not
27 exist.

28 (b) The Secretary of State shall issue a cease and desist order
29 to a Property Tax Agent who commits any of the acts listed in
30 Section 22260.6, and shall provide a copy of the order to the
31 Attorney General. Unless the person has been punished by
32 imposition of a civil penalty pursuant to Section 22260.8, prior to
33 issuing a cease and desist order to a person pursuant to this
34 subdivision, the Secretary of State shall provide the person with
35 written notice and an opportunity to demonstrate that grounds for
36 ~~disqualification~~ *the cease and desist order* do not exist.

37 (c) The Secretary of State shall issue a cease and desist order
38 to an individual who is employed, under contract, or otherwise
39 receives compensation to communicate directly, or through agents,
40 employees, or subcontractors, with any county official for the

1 purpose of influencing official action who has not registered as a
2 Property Tax Agent pursuant to Section 22260.1, and shall provide
3 a copy of the order to the Attorney General.

4 22260.8. (a) A person who violates this chapter shall be subject
5 to a civil penalty not to exceed one thousand five hundred dollars
6 (\$1,500) in a civil action for each violation brought in the name
7 of the people of the State of California by the Attorney General,
8 a district attorney, or a city attorney.

9 (b) The court shall impose a civil penalty for each violation of
10 this chapter. In assessing the amount of the civil penalty, the court
11 may consider relevant circumstances presented, including, but not
12 limited to, the following:

13 (1) The nature and seriousness of the misconduct.

14 (2) The number of violations.

15 (3) The persistence of the misconduct.

16 (4) The length of time over which the misconduct occurred.

17 (5) The willfulness of the defendant's misconduct.

18 (6) The defendant's assets, liabilities, and net worth.

19 (c) If the Attorney General brings the action, one-half of the
20 civil penalty collected shall be paid to the treasurer of the county
21 in which the judgment was entered *for distribution to the county*
22 *general fund*, and one-half to the *state's* General Fund. If a district
23 attorney brings the action, the civil penalty collected shall be paid
24 to the treasurer of the county in which the judgment was entered
25 *for distribution to the county general fund*. If a city attorney brings
26 the action, one-half of the civil penalty collected shall be paid to
27 the treasurer of the city in which the judgment was entered *for*
28 *distribution to the city's general fund*, and one-half to the treasurer
29 of the county in which the judgment was entered *for distribution*
30 *to the county general fund*.

31 (d) Notwithstanding subdivision (a), a penalty shall not be
32 imposed if the first noncompliance with, or violation of, this
33 chapter is cured within 30 days of the date on which the Secretary
34 of State issues a cease and desist order pursuant to Section 22260.7
35 to a person subject to this chapter.

36 22260.9. The Attorney General, District Attorney, or City
37 Attorney shall notify the Secretary of State of both of the following:

38 (a) Any conviction of a Property Tax Agent under Section
39 22260.3. The prosecuting office shall make this notification.

1 (b) Any civil penalty imposed against a Property Tax Agent
2 pursuant to Section 22260.8. The office bringing the action shall
3 make this notification.

4 22260.11. The provisions of this chapter shall preempt and
5 supersede all local ordinances regarding the registration of any
6 individual who communicates directly or indirectly with any county
7 official for the purpose of influencing official action regarding a
8 property tax assessment.

9 SEC. 2. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution for certain
11 costs that may be incurred by a local agency or school district
12 because, in that regard, this act creates a new crime or infraction,
13 eliminates a crime or infraction, or changes the penalty for a crime
14 or infraction, within the meaning of Section 17556 of the
15 Government Code, or changes the definition of a crime within the
16 meaning of Section 6 of Article XIII B of the California
17 Constitution.

18 However, if the Commission on State Mandates determines that
19 this act contains other costs mandated by the state, reimbursement
20 to local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.